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Message Text

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ACTION SS-25

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P R 261450Z APR 75
FM USMISSION GENEVA
TO AMEMBASSY NASSAU PRIORITY
INFO SECSTATE WASHDC 2425
AMEMBASSY JAKARTA
AMEMBASSY MANILA
AMEMBASSY SUVA

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 2971

EXDIS

FROM USDEL LOS

FOR AMB WEISS FROM AMB MOORE

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS: ARCHIPELAGO NEGOTIATIONS

1. FOLLOWING IS MOST RECENT TEXT ON CHAPTER ON ARCHIPELAGIC STATES AGREED UPON WITH GOCB AS REPORTED REFTEL (NOTAL). FONMIN ADDERLEY HAS COPY THIS DRAFT AS DO DELS OF USSR, UK AND FIJI AND CHAIRMAN OF COMITE II. ADDITIONALLY BAHAMIAN DEL PLANS TO GIVE COPIES TO DELS OF INDONSIA AND PHILIPPINES.

2. BEGIN TEXT:
ARTICLE I
1. THIS CHAPTER APPLIES ONLY TO ARCHIPELAGIC STATES.

2. AN ARCHIPELAGIC STATE IS AN OCEANIC NATION WHOSE COMPETENT ISLANDS, INTERCONNECTING WATERS, AND OTHER NATURAL FEATURES ARE SO CLOSELY INTERRELATED AS TO FORM A SINGLE INTRINSIC GEOGRAPHIC, ECNOMIC, AND POLITICAL ENITITY AND WHICH MEETS THE CRITERIA FOR A
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SYSTEM OF ARCHIPELAGIC LINES AS SPECIFIED IN ARTICLE II.

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ARTICLE II
1. AN ARCHIPELAGIC STATE MAY DRAW A SINGLE SYSTEM
OF STRAIGHT ARCHIPELAGIC LINES ENCLOSING THE ARCHIPELAGO
JOINING THE OUTERMOST POINTS OF THE ISLANDS OF THE
ARCHIPELAGO PROVIDED SUCH LINES ENCLOSE THE MAIN ISLANDS
AND IN AN AREA IN WHICH THE RATIO OF THE AREA OF THE LAND
TO THE AREA OF THE SEA IS BETWEEN ONE-TO-ONE AND
ONE-TO-NINE.
2. ARCHIPELAGIC LINES SHALL NOT BE LONGER THAN
80 NAUTICAL MILES EXCEPT THAT A NUMBER OF SUCH LINES
NOT TO EXCEED ----PERCENT OF THE TOTAL NUMBER
ENCLOSING THE ARCHIPELAGO MAY NOT BE LONGER THAN
125 NAUTICAL MILES.
3. ARCHIPELAGIC LINES SHALL NOT BE DRAWN TO AND
FROM LOW-TIDE ELEVATIONS INCLUDING DRYING REEFS UNLESS
LIGHTHOUSES OR SIMILAR INSTALLATIONS WHICH ARE PERMANENTLY
ABOVE SEA LEVEL HAVE BEEN BUILD ON THEM OR WHERE LOW-TIDE
ELEVATION IS SITUATED WHOLLY OR PARTLY AT A DISTANCE
NOT EXCEEDING THE BREADTH OF THE TERRITORIAL SEA FROM
THE NEAREST ISLAND.
4. ARCHIPELAGIC LINES SHALL NOT BE DRAWN IN SUCH
A MANNER AS TO CUT OFF THE TERRITORIAL SEA OF ANOTHER
STATE.
5. THE ARCHEPELAGIC STATES SHALLCLEARLY INDICATE
ITS ARCHEPELAGIC LINES ON LARGE SCALE CHARTS, DEPOSITED
WITH THE SECRETARY GENERAL OF THE UNITED NATIONS, WHO
SHALL GIVE DUE PUBLICITY THERETO.
6. FOR THE PURPOSE OF COMPUTING THE LAND-TO-. 3-
RATIO IN PARAGRAPH 1 OF THIS ARTICLE, THE LAND AREA OF
AN ATOL IS DEEMED TO INCLUDE THAT PART OF A STEEP-SIDED
OCEANIC PLATEAU WHICH IS ENCLOSED OR NEARLY ENCLOSED BY
A CHAIN OF LIMESTONE ISLANDS AND DRYING REEFS LYING ON THE
PERIMETER OF THE PLATEAU.
7. REFERENCES TO AN ISLAND INCLUDE SUCH PART OF
AN ISLAND AS IS UNDER THE SOVERIGNTY OF THE ARCHIPELAGIC
STATE.

ARTICLE III
1. SUBJECT TO THE PROVISIONS OF THIS CHARTER,
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THE ARCHEPELAGIC LINES SHALL BE REGARDED AS THE BASE-
LINES FROM WHICH THE BREADTH OF THE TERRIROTIAL SEA
AND ECNOMIC ZONE IS MEASURED.
2. THE PROVISIONS OF THIS CONVENTION SHALL APPLY
TO ANY ISLANDS OUTSIDE ARCHEPELAGIC LINES IN THE SAME
WAY AS THEY APPLY TO THE ISLANDS OF A STATES WHICH IS
NOT AN ARCHIPELAGIC STATE.

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ARTICLE IV
1. WATERS ENCLOSED BY ARCHEPELAGIC LINES SHALL BE DESIGNATED ARCHEPELAGIC WATERS. REGARDLESS OF THEIR DEPTH OR DISTANCE FROM THE COAST, SUCH WATERS OF SUBJECT TO THE SOVEREIGNTY OF THE ARCHIPELAGIC STATE TO WHICH THEY APPERTAIN.
2. THE SOVEREIGNTY OF THE ARCHIPELAGIC STATE EXTENDS TO THE AIRSPACE OVER ITS ARCHIPELAGIC WATERS AS WELL AS TO THE WATER COLUMN, THE SEABED AND SUBSOIL THEROF, AND TO ALL OF THE RESOURCES CONTAINED HEREIN.
3. THIS SOVEREIGNTY IS EXCERCISED SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

ARTICLE V
WITHIN ITS ARCHIPELAGIC WATERS, THE ARCHIPELAGIC STATE MAY DRAW CLOSING LINES FOR THE DELIMITATION OF INTERNAL WATERS UNDER ARTICLES (DEALING WITH RIVER CLOSING), (DEALING WITH BAY CLOSINGS), AND (DEALING WITH CLOSING FOR PERMANENT OUTER HARBOR WORKS) OF CHAPTER ---- OF THIS CONVENTION. THE REGIME APPLICABLE IN THESE INTERNAL WATERS, AS DELIMITED BY THIS ARTICLE, SHALL BE THE SAME AS THE REGIME FOR INTERNAL WATERS AS DESCRIBED IN CHAPTER ....(GENERAL REGIME FOR INTERNAL WATERS).

ARTICLE VI
EXCEPT AS PROVIDED IN ARTICLE VII, SHIPS OF ALL STATES, WHETHER COASTAL OR NOT, SHALL HAVE THE RIGHT OF INNOCENT PASSAGE THROUGH ARCHIPELAGIC WATERS.

ARTICLE VII
1. SHIPS AND AIRCRAFT OF ALL STATES, WHETHER COASTAL OR NOT, SHALL HAVE THE RIGHT OF ARCHIPELAGIC PASSAGE IN SEALANES AND AIR CORRIDORS THROUGH THE CONFIDENTIAL

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ARCHIPELAGO.
2. SUCH SEALANES AND AIR CORRIDORS SHALL TRAVERSE THE ARCHIPELAGO AND THE ADJACENT TERRITOTIAL SEA, AND SHALL INCLUDE:
(A) ALL NORMAL PASSAGE ROUTES USED AS ROUTES FOR INTERNATIONAL NAVIGATION THROUGH ARCHI-PELAGO, AND WITHIN SUCH ROUTES SO FAR AS SHIPS ARE CONCERNED, ALL NORMAL NAVIGATION CHANNELS, PROVIDED THAT DUPLICATION OF EQUALLY SUITABLE ROUTES BETWEEN THE SAME ENTRY AND EXIT POINTS SHALL NOT BE NECESSARY; AND
(B) AN AREA WHICH AT ALL POINTS IS NOT LESS THAN THE NARROWER OF:
(I) ----PERCENT OF THE DISTANCE BETWEEN THE NEAREST POINTS OF PRINCIPAL

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ISLANDS BOUNDING THE PASSAGE ROUTES; OR
(III) ----NAUTICAL MILES.
3. AIR CORRIDORS FOR ARCHIPELAGIC PASSAGE SHALL BE CONTERMINOUS WITH SEALANES.
4. ARCHIPELAGIC PASSAGE IS THE EXCERCISE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER OF THE FREEDOM OF NAVIGATION AND OVERFLIGHT IN THE NORMAL MODE OF PASSAGE SOLELY FOR THE PURPOUS OF CONTINIOUS AND EXPEDITIOUS PASSAGE THROUGH THE ARCHIPELAGO.
5. AN ARCHIPELAGIC STATES SHALL NOT HAMPER OR IMPEDE ARCHIPELAGIC PASSAGE AND SHALL GIVE APPROPRIATE PUBLICITY TO ANY DANGER TO NAVIGATION OR OVERFLIGHT OF WHICH IT HAS KNOWLEDGE.
6. AN ARCHIPELAGIC STATE SHALL CLEARLY DELIMIT ALL SEALANES AND AIR CORRIDORS DESIGNATED BY IT PURSUANT TO THIS ARTICLE AND SHALL INDICATE ALL SEALANES AND AIR CORRIDORS ON LARGE SCALE CHARTS DEPOSITED WITH THE SECRETARY GENERAL OF THE UNITED NATIONS, WHO SHALL GIVE DUE PUBLICITY THERETO.
7. AN ARCHIPELAGIC STATE MAY, FROM TIME TO TIME, AFTER GIVING DUE PUBLICITY THERETO, SUBSTITUTE OTHER SEALANDS AND AIR CORRIDORS FOR ANY SUCH LANES OR CORRIDORS PREVIOUSLY DESIGNATED BY IT PROVIDED SUCH LANES OR CORRIDORS MEET THE PROVISIONS OF THIS ARTICLE.
8. IN AREAS OUTSIDE DESIGNATED SEALANES, THE ARCHIPELAGIC STATE MAY, WITHOUT DISCRIMINATION IN FORM
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OR IN FACT AMONG FOREIGN SHIPS, SUSPEND TEMPORATILY IN SPECIFIED AREAS OF ITS ARCHIPELAGIC WATERS THE INNOCENT PASSAGE OF FOREIGN SHIPS IF SUCH SUSPENSION IS NECESSARY FOR THE PROTECTION OF ITS SECURITY. ANY SUCH SUSPENSION SHALL BE MADE ONLY AFTER GIVING DUE PUBLICITY THERETO.
9. UNLESS THE ARCHIPELAGIC STATES DESIGNATES SEALANES AND AIR CORRIDORS PURSUANT TO THIS ARTICLE, ARCHIPELAGIC PASSAGE SHALL APPLY THROUGHOUT AND ABOVE ARCHIPELAGIC WATERS AND ADJACENT TERRITORIAL SEA.

ARTICLE VIII
1. AN ARCHIPELAGIC STATE MAY PRESCRIBE TRAFFIC SEPARATION SCHEMES FOR ARCHIPELAGIC PASSAGE THROUGH STRAITS WHERE NECESSARY TO PROMOTE THE SAFE PASSAGE OF SHIPS.
2. AN ARCHIPELAGIC STATE MAY, WHEN CIRCUMSTANCES REQUIRE AND AFTER GIVING DUE PUBLICITY TO ITS DECISION, SUBSTITUTE OTHER TRAFFIC SEPARATION SCHEMES FOR ANY PREVIOUSLY DESIGNATED BY IT.
3. BEFORE THE IMPLEMENTATION OR SUBSTITUTION OF REGULATIONS CONCERNING TRAFFIC SEPARATION SCHEMES, AN

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ARCHIPELAGIC STATE SHALL REFER PROPOSALS TO THE
COMPETENT INTERNATIONAL ORGANIZATION AND SHALL IMPLEMENT
OR SUBSTITUTE REGULATIONS CONCERNING SUCH SEPARATION
SCHEMES ONLY AS APPROVED BY SUCH ORGANIZATION.
4. AN ARCHIPELAGIC STATE SHALL CLEARLY INDICATE
ALL TRAFFIC SEPARATION SCHEMES DESIGNATED BY IT ON
APPROPRIATE CHARTS TO WHICH DUE PUBLICITY SHALL BE
GIVEN.

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AMEMBASSY JAKARTA
AMEMBASSY MANILA
AMEMBASSY SUVA

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ARTICLE IX

1. SHIPS AND AIRCRAFT, WHILE EXERCISING THE RIGHT
OF ARCHIPELAGIC PASSAGE, SHALL:
(A) PROCEED THROUGH THE ARCHIPELAGO WITHOUT
UNREASONABLE DELAY AND SHALL NOT ENGAGE IN
ACTIVITIES OTHER THAN THOSE NORMALLY INCIDENT
TO TRANSIT UNLESS THE SAFETY OF THE SHIP OR
AIRCRAFT OR THE RULES OF NAVIGATION REQUIRE
OTHERWISE.
(B) REFRAIN FROM ANY THREAT OR USE OF FORCE
IN VIOLATION OF THE CHARTER OF THE UNITED
NATIONS AGAINST THE TERRITORIAL INTEGRITY OR
POLITICAL INDEPENDENCE OF THE ARCHIPELAGIC
STATE;
(C) RESPECT APPLICABLE DESIGNATED SEALANES,
AIR CORRIDORS, AND TRAFFIC SEPARATION SCHEMES
ESTABLISHED IN ACCORDANCE WITH THIS CHAPTER.

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2. SHIPS IN ARCHIPELAGIC PASSAGE SHALL:
(A) COMPLY WITH GENERALLY ACCEPTED INTERNATIONAL
REGULATIONS, PROCEDURES AND PRACTICES FOR THE
SAFETY OF NAVIGATION AT SEA, INCLUDING THE
INTERNATIONAL REGULATIONS FOR PREVENTING
COLLISIONS AT SEA;
(B) COMPLY WITH GENERALLY ACCEPTED INTERNATIONAL
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REGULATIONS, PROCEDURES AND PRACTICES FOR THE
PREVENTION AND CONTROL OF POLLUTION FROM SHIPS.

3. AIRCRAFT IN ARCHIPELAGIC PASSAGE SHALL AT ALL
TIMES MONITOR THE RADIO FREQUENCY ASSIGNED BY THE APPRO-
PRIATE INTERNATIONALLY DESIGNATED AIR TRAFFIC CONTROL
AUTHORITY OR THE APPROPRIATE INTERNATIONAL DISTRESS
RADIO FREQUENCY, AND SHALL OPERATE WITH DUE REGARD FOR
THE SAFETY OF NAVIGATION. CIVIL AIRCRAFT SHALL OBSERVE
THE RULES OF THE AIR ESTABLISHED BY THE INTERNATIONAL
CIVIL AVIATION ORGANIZATION UNDER THE CHICAGO CONVENTION
AS THEY APPLY TO FLIGHTS OUTSIDE THE TERRITORY OF
ANY STATE. STATE AIRCRAFT WILL NORMALLY COMPLY WITH
SUCH SAFETY MEASURES AND WILL AT ALL TIMES OPERATE
WITH DUE REGARD FOR THE SAFETY OF NAVIGATION.

ARTICLE X

DURING THEIR PASSAGE THROUGH ARCHIPELAGIC WATERS,
FOREIGN SHIPS, INCLUDING MARINE RESEARCH AND HYDROGRAPHIC
SURVEY SHIPS, MAY NOT CARRY OUT ANY RESEARCH OR SURVEY
ACTIVITIES WITHOUT THE PRIOR AUTHORIZATION OF THE
ARCHIPELAGIO STATE.

ARTICLE XI

1. AN ARCHIPELAGIC STATE, MAY IN THE EXERCISE OF
ITS SOVREIGNTY OVER ARCHIPELAGIC WATERS, ENGAGE IN
RESOURCE OR OTHER ACTIVITIES THROUGHOUT SUCH WATERS,
INCLUDING DESIGNATED SEALANES, PROVIDED THAT SUCH
ACTIVITIES SHALL NOT UNJUSTIFIABLY INTERFERE WITH
ARCHIPELAGIC PASSAGE. (SPECIFIC PROVISIONS MIGHT BE
ADDED, IF IT IS FELT DESIRABLE, WITH RESPECT TO
INSTALLATIONS, SAFETY ZONES, ETC.)

2. ARCHIPELAGIC PASSAGE SHALL BE CONDUCTED WITH
DUE REGARD FOR OTHER ACTIVITIES WITHIN ARCHIPELAGIC
WATERS, INCLUDING RESOURCE ACTIVITIES.

ARTICLE XII

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SUBJECT TO ITS RIGHT TO TAKE REASONABLE MEASURES FOR THE EXPLORATION AND EXPLOITATION OF ITS NATURAL RESOURCES, THE ARCHIPELAGIC STATE MAY NOT IMPEDE EXISTING RIGHTS TO LAY OR MAINTAIN SUBMARINE CABLES IN AREAS WHICH WOULD BE BEYOND THE TERRITORIAL SEA IF THIS CHAPTER DID NOT APPLY.

ARTICLE XIII

RESPONSIBILITY FOR ANY DAMAGE CAUSED TO AN ARCHIPELAGIC STATE RESULTING FROM ACTIVITIES IN CONTRAVENTION OF THIS CHAPTER BY ANY SHIP OR AIRCRAFT ENTITLED TO SOVEREIGN IMMUNITY SHALL BE BORNE BY THE FLAG STATE.

ARTICLE XIV

ANY DISPUTE CONCERNING THE INTERPRETATION OR APPLICATION OF THIS CHAPTER, INCLUDING DISPUTES AS TO THE DESIGNATION OF SEALANES AND AIR CORRIDORS PURSUANT TO ARTICLE VII, SHALL BE SETTLED IN ACCORDANCE WITH CHAPTER---- OF THIS CONVENTION.DALE

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